



## U.S. Department of Justice

United States Attorney  
Southern District of New York

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

January 12, 2010

**By Fax**

The Honorable Jed S. Rakoff  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1340  
New York, New York 10007

*United States v. Marc Dreier,  
S1 09 Cr. 85 (JSR)*

The Honorable Miriam Goldman Cedarbaum  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1330  
New York, New York 10007

*SEC v. Dreier,  
08 Civ. 10617 (MGC)*

The Honorable Stuart M. Bernstein, Chief Judge  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green, Room 723  
New York, New York 10004

*In re: Dreier LLP, 08-15051 (SMB)  
In re: Marc S. Dreier, 09-10371 (SMB)*

*Re: Letter to Panel from counsel for Fortress Capital Management  
and others, dated January 12, 2010*

Dear Judges Rakoff, Cedarbaum, and Chief Judge Bernstein:

The Government respectfully writes in response to the letter submitted this morning by counsel for Fortress Investment Group LLC ("Fortress") and others, in which counsel requests an adjournment of any discussion at today's hearing of the GSO settlement agreements, so that counsel may resolve unspecified representational issues. Counsel writes that, yesterday, "it became clear that the settlement agreement reached between the [USAO-SDNY] and GSO, which was filed with Judge Rakoff on December 23, 2009, is contingent on the approval of the GSO settlement with the Trustees." However, this is incorrect. The Government's agreement with GSO (the "GSO Consent Order of Forfeiture," dated December 21, 2009) is a stand-alone agreement that is not contingent upon any agreements between GSO and the Trustees.

The letter also suggests that the representational issues became apparent in part as a result

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of "the details contained in the status report filed by the government yesterday afternoon." However, the Status Report does not disclose any new information about the terms of the agreements, which are clear on their face. Counsel for Fortress has known about the exact terms of the Government's agreements with GSO and the Trustee for nearly three weeks. As noted in the Status Report, the Government filed its proposed agreement with GSO (the GSO Consent Order of Forfeiture), and its proposed agreement with the Chapter 11 Trustee (the "Coordination Agreement"), three weeks ago, on December 23, 2009. Counsel has also known that GSO had reached an agreement with the Trustees, as that agreement is explicitly referenced in the Coordination Agreement. On Friday, the Trustees filed a motion in the bankruptcy proceedings for approval of their agreement with GSO.

But even prior to the Government's filings on December 23, 2009, counsel for Fortress was aware of the key issues at play in the settlement discussions. In the months of negotiations that led to the settlement agreements, the Government had numerous meetings and conversations with counsel for Fortress, in which the Government advised counsel of its position on settlement issues with GSO and of the general progress of the negotiations. Thus, there was simply no new information contained in yesterday's Status Report that exposed the "representational issues" raised today.

Respectfully submitted,

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cc (by email):

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